

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

JIMMY EDWARDS, ROBERT HUNT and DOLORES HUNT, and CLIFFORD MCKELLAR, JR. and EMMA MCKELLAR on behalf of themselves and all others similarly situated,)	
Plaintiffs,)	Case No.: 7:18-cv-00169-BO
v.)	
CSX TRANSPORTATION, INC.,)	
Defendant.)	

ANTOINETTE MOORE, individually and on behalf of all others similarly situated,)	
Plaintiff,)	Case No.: 7:18-cv-00177-BO
v.)	
CSX TRANSPORTATION, INC.,)	
Defendant.)	

WEST LUMBERTON BAPTIST CHURCH, CURRIE CHAIN SAW, INC., C.J.M VENTURES, INC., WILLIAM LOCKLEAR, D/B/A STRICKLAND'S BARBERSHOP, TBL ENVIRONMENTAL LABORATORY, INC., SAMMY'S AUTO SALES, INC., LINDA SAMPSON, AND ERIC CHAVIS, individually and on behalf of all others similarly situated,)	
Plaintiffs,)	Case No.: 7:18-cv-00178-BO
v.)	
CSX TRANSPORTATION, INC.,)	
Defendant.)	

**ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION TO
CONSOLIDATE AND FOR LEAVE TO FILE MASTER AMENDED
CONSOLIDATED COMPLAINT**

This matter comes before the Court with regard to the motion filed by the Plaintiffs in the three above-captioned proceedings on January 18, 2019. The motion, pursuant to Fed. R. Civ. P. 16(a) and 42(a), requests that the Court enter an order consolidating the three relevant cases and set deadlines for plaintiffs to file a Master Amended Consolidated Complaint and for defendant CSX Transportation, Inc. ("CSXT") to respond to that complaint. CSXT does not oppose the motion.

The moving Plaintiffs are plaintiffs in the following three putative class actions:

- a. *Jimmy Edwards et al. v. CSX Transportation, Inc.*, No. 4:17-cv-169-BO ("Edwards");
- b. *Antoinette Moore v. CSX Transportation, Inc.*, No. 4:17-cv-177-BO ("Moore"); and
- c. *West Lumberton Baptist Church et al. v. CSX Transportation, Inc.*, No. 4:17-cv-178-BO ("WLBC").

Under Rule 42(a), "[i]f actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay." The Court finds that the Plaintiffs in the three above-captioned actions ("Actions") assert one or more similar claims against CSXT arising out of the flooding allegedly affecting individuals and businesses in the City of Lumberton, North Carolina as more specifically alleged in the Actions. Plaintiffs in the Actions have agreed that they will be consolidated for all purposes, and CSXT does not oppose the motion. The Court further notes that upon consolidation of the proceedings, the Plaintiffs intend to file in due course a master consolidated amended complaint with the intention that this shall become the operative complaint for the

consolidated Actions, and allow for the more efficient resolution of these matters.

Accordingly, the Court hereby orders as follows:

1. CONSOLIDATION OF RELATED ACTIONS.

- a. The Court finds that the record and relevant pleadings reflect that the Actions assert one or more similar claims arising from the flooding allegedly affecting individuals and businesses in the City of Lumberton, North Carolina and raise one or more common issues of fact or law. Accordingly, the Court finds that the *Edwards, Moore, and WLBC* Actions should be consolidated for all purposes pursuant to Fed. R. Civ. P. 42(a) for the purposes of discovery and motions filing. If necessary, the Court will consider whether the cases should continue to be consolidated for the purposes of trial at the appropriate time.
- b. All future filings shall be made only in case No. 7:18-cv-169-BO, which is designated as the lead case. All future filings shall reflect the case caption for each of the consolidated cases. The clerk is DIRECTED to enter this order in each of the now-consolidated cases; future orders shall be entered only in the lead case unless otherwise directed. Finally, the clerk is directed to remove case No. 7:18-cv-177-BO and No. 7:18-cv-178-BO from the Court's active docket, and to return those cases to the active docket on order of the Court.

2. FILING OF CONSOLIDATED AMENDED PLEADINGS.

- a. On November 30, 2018, CSXT filed motions to dismiss each of the underlying complaints in the separate Actions. Plaintiffs shall not be required to respond to CSXT's pending motions to dismiss. CSXT shall have the right to file any appropriate motions once the master consolidated amended complaint has been filed in the Consolidated Action.
- b. Plaintiffs are instructed to file a master consolidated amended complaint on or before February 28, 2019.
- c. CSXT shall file any responsive pleading or Rule 12 motion within sixty days of the date Plaintiffs file their master consolidated amended complaint.

SO ORDERED.

Dated: 1-18-19.


CHIEF UNITED STATES DISTRICT
JUDGE TERRENCE W. BOYLE